REQUEST FOR PROPOSAL

MB11-26

MODULAR BUILDINGS, SHELTERS, AND STRUCTURES

3555 Timmons Ln

Houston, TX 77027

RELEASE DATE: June 17, 2026

DEADLINE FOR QUESTIONS: July 9, 2026

RESPONSE DEADLINE: July 30, 2026, 12:00 pm

RESPONSES MUST BE SUBMITTED ELECTRONICALLY TO:

https://procurement.opengov.com/portal/h-gac

Houston-Galveston Area Council

REQUEST FOR PROPOSAL

Modular Buildings, Shelters, and Structures

I. Inquiries/Clarifications .....
II. Submission Requirements .....
III. Solicitation Requirements .....
IV. General/Additional Requirements .....
V. Product Categories .....
VI. Additional Resources/Website Links .....
VII. Contract Term/Multiple Awards/Usage .....
VIII. DBE Sub-Contracting Goal .....
IX. Submission Details/Uploads/Required Documents .....
X. Evaluation Criteria .....
XI. Evaluation Process .....
XII. Selection/Final Approval and Award .....
XIII. Presentation/Demo/Interview and Best and Final .....
XIV. Debrief/Protest .....
XV. Master Agreement General Contract (and Solicitation) Terms and Conditions .....
XVI. Additional H-GAC Solicitation Terms and Conditions .....

Attachments:

A - HGACBuy-Contractor-and-Customer-Handbook

B - Sample HGACBuy Master Agreement General and Special Provisions

1. Inquiries/Clarifications

Respondents must submit questions by the Questions deadline indicated in this Solicitation. Telephone/email inquiries are not accepted. H-GAC will respond as completely as possible to each question. Questions and answers will be posted as soon as available.

The names of respondents who submit questions will not be disclosed.

All clarifications will be available in the Question and Answer and/or Addenda Sections in OpenGov, only the information in these sections should be used in preparing a response; verbal communications and other written documents intended to clarify and interpret will not legally bind H-GAC. H-GAC does not assume responsibility for the receipt of any clarifying information. Respondents must periodically check for updates.

Each Respondent must carefully examine all Solicitation documents and become thoroughly familiar with all requirements before submission to ensure the response meets the intent of this Solicitation. Respondent is responsible for making all investigations and examinations that are necessary to ascertain conditions affecting the requirements of this Solicitation. Failure to make such investigations and examinations will not relieve the Respondent from the obligation to comply, in every detail, with all provisions and requirements of the Solicitation.

2. Submission Requirements

Submissions must be in PDF or Excel format ONLY where indicated and uploaded to the designated section. Documents uploaded into incorrect sections or other formats may be deemed non-responsive and the submission rejected. Additionally, zip files are not allowed.

All responses and required documents must be submitted via the OpenGov system before the deadline. The system will close automatically at the specified time, and late or incomplete submissions will not be accepted. **The OpenGov system will not transmit partial or incomplete submissions attempted after the deadline date and time specified in this solicitation.** Recording of proposal submission time and date occur via OpenGov. To satisfy any required public opening, the respondent list is made available in the OpenGov Public Portal after the deadline.

Respondents are strongly encouraged to submit proposals well in advance of any deadline to ensure all uploads and submissions are completed successfully before the cutoff time. Respondents are also encouraged to double-check all uploads to ensure the file is correct and the document is uploaded to the proper section of the response. Respondents may modify submissions that have already been submitted, before the deadline.

Recording of proposal submission time and date occur via OpenGov. To satisfy any required public opening, the respondent list is made available in the OpenGov Public Portal after the deadline.

The H-GAC Procurement and Contracts Department will not respond to emails from potential respondents related to the acceptance or consideration of incomplete, incorrect, or late submissions.

3. Solicitation Requirements

Respondent must be compliant with all licensing, permitting, registration or other applicable legal or regulatory requirements imposed by any governmental authority. It is Respondent's responsibility to ensure that this requirement is met. H-GAC reserves the right to request copies of any license, permit, or other compliance related documentation at any time. Listed below are other requirements of responding to the Solicitation:

3.1. Contractor Orientation and Training

H-GAC believes that Contractor's familiarity with the operational policies and requirements of the Cooperative Purchasing Program is a key factor in achieving Customer satisfaction. The Contact Person listed on Contractor Status and Contact Form or an alternate, will be required to participate in an H-GAC vendor orientation and training as soon as possible after contract execution. In addition, other Contractor's staff who will be involved in any way with the HGACBuy Program should participate in orientation. The orientation may be presented as a teleconference or webinar or may be held in H-GAC's offices as determined by H-GAC and Contractor to be the most efficient and effective form of delivery. Please visit https://www.hgacbuy.org/events for more information.

3.2. Nationwide Sales Opportunity

HGACBuy contracts provide various products and services to local governments and qualifying non-profits throughout the nation, and desires to make established contracts available to Customers wherever and whenever practicable. Once a contract is executed, Contractor is expected to expand the scope of its marketing effort to include sales to Customers in all areas of the United States. Please also view important guidelines and additional information regarding marketing the program at: https://www.hgacbuy.org/marketing

3.3. Corporate/Sales Commitment

Contractor is required to make some basic commitments to ensure the overall success of the HGACBuy program. By submission of a response, Respondent agrees that HGACBuy has the support of senior management and HGACBuy will be the primary government contracting vehicle when offering services/products awarded from this solicitation to eligible Customers nationwide. A further commitment to aggressively market the program, both independently as well in partnership with HGACBuy, is required.

3.4. Manufacturer as Respondent

If Respondent is a manufacturer or wholesale distributor, the response received will be evaluated based on a response made in conjunction with that manufacturer's authorized dealer/reseller network. Unless stated otherwise, a manufacturer or wholesale distributor Respondent is assumed to have a documented relationship with their dealer/reseller network where that network is informed of, and authorized to accept, purchase orders pursuant to any Contract resulting from this Solicitation on behalf of the manufacturer or wholesale distributor Respondent. Any listed dealer/reseller will be considered a sub-contractor of the Respondent. The relationship between the manufacturer and wholesale distributor Respondent and its dealer/reseller network must be indicated at the time of the submission.

3.5. Dealer/Reseller as Respondent

If Respondent is a dealer/reseller of the products/services proposed, the response will be evaluated based on the Respondent's authorization to provide those products and services from the manufacturer.

3.6. Approval by Manufacturer

Any awarded contractor must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Respondents to this solicitation must submit an approval letter from each manufacturer; authorization letters must include the regions in which equipment may be sold or serviced.

3.7. Structure of Response

Depending on the Product or Service, market structures and sales practices can differ substantially. For example, dealers may sell into any market or may be restricted to certain territories, manufacturers may sell direct or be limited by law to selling through independent dealerships, etc. H-GAC's objective is to ensure that Customers, no matter where located, can buy contracted products/services and receive quality and timely service and support, while allowing for the most appropriate and effective response to this Solicitation. Responses to this Solicitation will only be accepted in conformance with the below scenarios and requirements. Note: Respondent can only be a party to one response structure.

A. **Single Respondent Acting Alone Or As "Lead" For A Group:** Respondent must complete and sign a Signature Page and all other required forms and, if contracted, will be solely responsible for all contractual requirements including administration, processing of purchase orders and handling of payments for transactions which may involve other dealers/distributors who deliver the products or services. Unless stated otherwise, a manufacturer or wholesale distributor Respondent is assumed to have a documented relationship with their dealer network where that dealer network is informed of, and authorized to accept, purchase orders pursuant to any Contract resulting from this Solicitation on behalf of the manufacturer or wholesale distributor Respondent. Any listed dealer will be considered a sub-contractor of the Respondent. The use of any dealer or reseller is not required if manufacturer or distributor does not employ such.

B. **Multiple Respondents Acting Jointly:** A single Response will be submitted, and each party to the Response must complete and sign a Signature Page and all other required forms must be included in the single Response. If the Response is successful, each party will sign a separate contract with H-GAC and will be individually responsible for compliance with all terms and conditions. Only those parties which have executed a contract with H-GAC are authorized to process purchase orders for sales and payments under the HGACBuy program.

Contractor may sell through HGACBuy anywhere subject to compliance with applicable laws and regulations. If the market structure in which Contractor operates requires a contract assignment for any sale, in certain limited circumstances, H-GAC may allow the contract to be assigned to a Manufacturer or another Dealer(s). Such assignment must be specific and detailed and must be approved by the

Contractor and H-GAC. Once assigned, the Contractor and assignee may NOT sell or service the same product line or category.

Depending on the structure of the network, H-GAC recognizes in some cases it may be necessary for the Purchase Order to be issued in the name of the reseller/dealer, etc., however the reseller, dealer, etc. is recognized only as a sub-contractor and will not receive a separate contract award or be assigned any portion of the contract. Any Lead Respondent utilizing a dealer/reseller network who is awarded a contract will be responsible for the processing of the Purchase Order through the network and the activities of the sale, reporting requirements, and remittance of applicable order processing fees.

3.8. Contractor Status

Contractor is required to provide a status form, which is not part of any evaluation, but may be relevant to other state or local procurement requirements that apply to HGACBuy Customers. The following information will need to be captured:

A. Contractor's status as a minority/woman-owned business enterprise, historically underutilized business, or service-disabled veteran; etc.

B. Whether Contractor or its ultimate parent or majority owner has its principal place of business in Texas or employs at least 500 persons in Texas; and

C. Whether Respondent is a Texas resident or a non-resident business.

3.9. Administrative Fee

Fee established. For all completed transactions under an awarded contract, Supplier will pay a 2% Administrative Fee directly to H-GAC. **Supplier will include the Administrative Fee within its proposed pricing. Supplier may not directly charge Participating Entities to offset the Administrative Fee.** H-GAC will invoice the Supplier directly for the 2% H-GAC Administrative Fee. It is the Supplier's responsibility to remit the Administrative Fee within thirty (30) days after delivery of goods or services to Participating Entity.

Fee Calculation. The 2% Administrative Fee payable is calculated based upon the purchase order total amount of the Supplier's awarded and contracted pricing. On transactions where the Supplier extends an additional point of purchase discount, H-GAC Administrative Fee will be calculated before any such discounts are applied. Supplier agrees that H-GAC will have the right, with reasonable notice, to inspect its records pertaining to purchase orders processed and the accuracy of the fees payable to H-GAC.

Noncompliance. H-GAC reserves the right to seek all remedies available at law for unpaid or underpaid Administrative Fees due under this Agreement. Failure to remit payment, delinquent payments, underpayments, or other deviations from the requirements of this Agreement may be deemed a material breach and may result in cancellation of this agreement and disbarment from future agreements.

3.10. Labor Hours Definitions

If the awarded contract contains hours for labor related services, the following definitions will apply:

A. "Business Day" Monday through Friday

B. “Business Hours” Standard Business Hours 8 a.m. to 5 p.m.

C. “Regular Time” Work that occurs during standard business hours

D. “Emergency Time” Work that occurs outside standard business hours

3.11. HGACBuy Contractor/HGACBuy Member General Procedures

A. Contracts are awarded through fair and open competition in compliance with applicable procurement rules and regulations.

B. The HGACBuy member sends a proposal request to an adequate number of Contractors in the desired Contract Category.

C. The Contractor prepares and sends a proposal/quote to the HGACBuy member. The HGACBuy member conducts an evaluation of cost or price reasonableness, if the HGACBuy member is using $250,000 (or current published Simplified Acquisition Threshold amount) or more of federal funds and an independent cost/price evaluation is necessary.

D. The Contractor and the HGACBuy member agree on a Purchase Order. Purchase Orders/Supplemental Contracts are reported and sent by individual HGACBuy members to the Contractor and to HGACBuy, where pricing is confirmed against the contract, an Order Confirmation is issued to the HGACBuy Member and copies of the Purchase Order/Supplemental Contract are logged and filed.

E. The Contractor delivers product(s)/service(s) directly to the HGACBuy member with a subsequent invoice the HGACBuy member upon completion of the work or delivery of the supplies.

F. The Contractor receives payment directly from HGACBuy member.

G. The Contractor reports and remits the administrative fee to HGACBuy.

H. Reference also HGACBuy Customer and Contractor Handbook - https://www.hgacbuy.org/bid-notices/solicitation-forms-resources

3.12. Licensing and Permitting Requirements for Motor Vehicle Sales

Respondent must be a properly franchised dealer authorized to sell and service, including warranty service, all products offered and sold in response to the Solicitation or under any H-GAC contract.

A. Contractor/Supplier will be responsible for securing any and all inspections required by law, including State Inspection stickers. Any fee charged for these inspections is the responsibility of the Contractor/Supplier.

B. At the time of delivery to the Customer, Contractors/Suppliers are required to provide temporary paper license tags/plates for motor vehicles or other equipment required by the State of Texas to be registered for operation on public highways.

C. TEXAS OCCUPATIONS CODE, TITLE 14, CHAPTER 2301 (Formerly known as "The Texas Motor Vehicle Commission Code"):

1. Section 2301.251: License Required: Generally (a) Unless a person holds a license issued under this chapter authorizing the activity, the person may not (1) engage in business as, serve in the capacity of, or act as a dealer, manufacturer, distributor, converter, representative, vehicle lessor, or vehicle lease facilitator in this state.

2. Sec. 2301.252: License required: Sale of New Motor Vehicles:(a) A person may not engage in the business of buying, selling, or exchanging new motor vehicles unless the person: (1) holds a franchised dealer's license issued under this chapter for the make of new motor vehicle being bought, sold, or exchanged; or (2) is a bona fide employee of the holder of a franchised dealer's license.

D. Licensed Franchised Dealers submitting a Response for new cabs & chassis with installed bodies and other equipment, by this Statute, are required to employ properly licensed converters for the conversions of the new motor vehicles.

E. The Act of Submitting a Response is regarded as doing business, as the entity is soliciting a sale. Accordingly, each Respondent must be a manufacturer or licensed franchised dealer at the time the Response is submitted.

F. The units bid shall be in full and complete compliance with all applicable safety and pollution requirements and regulations in effect at the time of submission. This includes but is not limited to standards established by the United States Department of Transportation, including the Federal Motor Vehicle Safety Standards (FMVSS), the Occupational Safety and Health Administration (OSHA), the Environmental Protection Agency (EPA), the Texas Department of Transportation and the Texas Commission on Environmental Quality (TCEQ).

3.13. Warranty

Contractors must comply with the minimum warranty and maintenance requirements described below for any products or services provided under this Solicitation.

A. Contractor must furnish with response, and for all equipment sold through this H-GAC contract, the manufacturer's general warranty, which must be honored by all the manufacturer's authorized service locations.

B. All service/maintenance plan listings must clearly indicate the cost structure for such plans, clearly indicating which costs and fees are included (such as: hourly labor rates, shop fees, supply fees, environmental fees).

C. The Contractor will handle all warranty claims and all work must be completed within ten (10) calendar days after receipt of equipment/vehicle by the Contractor without cost to H-GAC or the Customer. Delayed warranties must be available for all vehicles and equipment. Warranty start date will be effective the date that the completed unit is placed into service by the Customer.

The Contractor must furnish a delayed warranty card/document for each unit delivered and/or advise the Customer of the procedures to be followed for obtaining the delayed start of warranty coverage. Requests for delayed warranties will not exceed six months after delivery.

D. Any and all documents necessary to effect manufacturer's warranty must be properly applied for and submitted by the Contractor and provided at the time of delivery. When additional warranties are available as standard, they must be included as a part of the response for the benefit of H-GAC and Customer.

E. In the event any component part of equipment or materials furnished under these specifications, or its subsequent contract(s), becomes defective by reason of material or workmanship during said period, and the end user agency immediately notifies Contractor of such defect, Contractor will, at no expense to the End User agency or H-GAC, repair or replace equipment or component with new equipment or component.

F. Warranty service of all system equipment is the sole responsibility of the Contractor under contract, but may be performed by their certified, designated agent.

4. General/Additional Requirements

All Product Items priced and sold pursuant to this Solicitation must, as applicable:

A. Meet all applicable requirements of federal, state and local laws and regulations.

B. Be manufacturer's normal offering with all standard features and functions and performance levels.

C. Be ready for turn-key operation upon delivery, including all standard and ordered optional equipment.

D. Respondent must include specifications, brochures, warranty information, and any other relevant product information with solicitation Response.

Note: “Unpriced/unpublished” options cannot be quoted on the Product Pricing Worksheet and may not be sold through this contract.

5. Product Categories

This is an indefinite quantity/indefinite delivery offerings contract – The HGACBuy Customer is responsible to ensure adequate competition is performed between the various contractors or contractors outside of HGACBuy to determine price reasonableness that might be required per any funding agency. Customer will need to ensure compliance with any funding agency requirements before proceeding with a purchase order under this contract. Please consult legal counsel regarding questions concerning compliance as a contractor under this solicitation.

5.1. Product Categories

This solicitation aims to establish contracts that enable program participants to:

- Purchase new or used modular and portable buildings, shelters, and related equipment.
- Lease new, used, or refurbished modular and portable buildings, shelters, and related equipment.

The following examples illustrate the type of products HGACBuy seeks to include in the solutions that will be available on this contract. This list is not meant to be limiting; rather, HGACBuy welcomes the broadest selection of solutions related to these types of structures:

A. Classroom, educational, and administrative

B. Offices

C. Medical or health care

D. Restrooms or related structures

E. Specialty structures, including any public safety training structures

F. Other modular and pre-fabricated structures

G. All related services

The HGACBuy Cooperative Purchasing program is prohibited from offering Architecture and Engineering or other independent testing services via a cooperative contract. Contractors may not offer any such services under an HGACBuy contract. Texas law requires Architectural and Engineering Services to be obtained in accordance with the Professional Services Procurement Act, Texas Local Government Code, Chapter 2254.

5.2. Manuals and Equipment Specifications

Respondent must supply at the time of delivery at least one complete owner's manual (the price of which must be included in Respondent's pricing) and any applicable operations and service documentation covering the completed products as delivered and accepted.

5.3. Final Contract Deliverables

Contractor agrees to submit written quarterly reports to H-GAC detailing all transactions during the previous three (3) month period. Reports are required to be submitted even if no sales occurred. Reports must include, but are not limited, to the following information:

- Customer Name and address
- HGACBuy confirmation number
- Product/Service purchased
- Customer Purchase Order Number
- Purchase Order Date
- Product/Service dollar amount
- HGACBuy Administrative Fee or Order Processing Charge amount

Reports must be provided to H-GAC in Excel or other acceptable electronic format by the 30th day of the month following the quarter being reported. If Contractor defaults in providing Products or Services reporting as required by the contract, recourse may be exercised through cancellation of the contract and other legal remedies as appropriate.

6. Additional Resources/Website Links

6.1. Reference Websites

- HGACBuy Website – www.hgacbuy.org
- HGACBuy Events – https://www.hgacbuy.org/events
- HGACBuy Marketing – https://www.hgacbuy.org/marketing

Note: Sample Contract and Handbook are reference material only, do not constitute a contract, or become incorporated as requirements of this Solicitation. Only information supplied in this Solicitation or by a Letter of Clarification posted to the HGACBuy website should be used in the preparation of a submission.

The actual final contract will be the same or nearly the same as the sample, however H-GAC reserves the right to update the actual contract as required for program or regulation requirements.

Note: Successful Respondents **MAY NOT** process any purchase orders for sales until all contract documents have been completely executed.

7. Contract Term/Multiple Awards/Usage

Contract Term: H-GAC intends to award one or more contracts for the products/services requested under this Solicitation. The term of the resulting contract(s) will be for a period of four (4) years and until any outstanding orders against the contract have been fulfilled. H-GAC may, at its option, extend the contract for up to one (1) additional one-year term. H-GAC reserves the right to extend and/or expand the scope of the contract if deemed to be in the best interest of H-GAC and subject to H-GAC Board of Directors approval.

Multiple Awards: H-GAC reserves the right to award contract(s) for line items or groups of line items, at its sole discretion. H-GAC will not make separate awards for sales in Texas and for sales outside the state of Texas. In the case of acquisitions governed by the Motor Vehicle Division, the dealer is awarded the contract in Texas, and the Manufacturer is awarded the contract outside of Texas.

No Guarantee of Usage: H-GAC makes no guarantee of volume or usage under any contract resulting from this Solicitation. Products/services will be requested and contracted on an as needed basis and the type and value of each assignment will vary.

8. DBE Sub-Contracting Goal

H-GAC's goal is to ensure that small and minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) are used when possible in providing services under a contract. In accordance with federal procurement requirements of 2 CFR §200.321, if subcontracts are to be let, the prime contractor must ensure the firms are considered as set forth below:

Such consideration means:

(1) These business types are included on solicitation lists;

(2) These business types are solicited whenever they are deemed eligible as potential sources;

(3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;

(4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;

(5) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

Nothing in this provision will be construed to require the utilization of any firm that is either unqualified or unavailable.

The Small Business Administration (SBA) is the primary reference and database for information on requirements related to Federal Subcontracting https://www.sba.gov/federal-contracting/contracting-guide/prime-subcontracting.

The contractor agrees to work with and assist HGACBuy customers in meeting any targets and goals, as may be required by any rules, processes, or programs they might have in place. Assistance may include compliance with reporting requirements, provision of documentation, consideration of Certified/Listed subcontractors, provision of documented evidence that an active participatory role for the declared business type entity was considered in a procurement transaction, etc.

9. Submission Details/Uploads/Required Documents

Submissions must be in PDF or Excel format ONLY where indicated and uploaded to the designated section. Documents uploaded into incorrect sections or other formats may be deemed non-responsive and the submission rejected. Additionally, zip files are not allowed.

9.1. Submission Upload Section

Please complete each section listed below and upload/respond to the questions or provide the information as directed.

*9.1.1. Structure of Response**

Please select an option in accordance with Section 3.7 Structure of Response.

☐ Single Respondent Acting Alone Or As "Lead" For A Group: solely responsible for all contractual requirements including administration, processing of purchase orders and handling of payments for transactions which may involve other dealers/distributors who deliver the products or services.
☐ Multiple Respondents Acting Jointly: Each party will sign a separate contract with H-GAC and will be individually responsible for compliance with all terms and conditions.
*Response required

*9.1.2. If proposing as Multiple Respondents acting jointly, please list the names of Joint Respondents**

If proposing as a Single Respondent, please state n/a.

*Response required

*9.1.3. Executive Summary Response**

Provide a summary of key aspects of the contractor's qualifications and indicate the Respondent's commitment to provide the services proposed and certify that all statements and information prepared and submitted in the response to this Solicitation are current, complete, and accurate; and that the proposed solution for the project meets all the requirements of this Solicitation.

*Response required

9.2. Pricing and Published Options Listing/Catalog

*9.2.1. Pricing**

Respondent must price complete product/service catalog(s), inclusive of its complete list pricing book and options, with a designated percentage discount that will be applied to all subsequent purchase orders (percentage discount applied to awarded list pricing). Acceptable formats:

(1) Respondent's official list price book in effect at the time of proposal submittal, with Respondent including a separate percentage-off-list discount (e.g. "10%"); OR

(2) A custom, HGACBuy-specific price list created for this proposal, with Respondent including the percentage discount that was used in the HGACBuy-specific pricing.

Responses that fail to provide discounts for equipment / options / services may be deemed non-responsive and disqualified from solicitation.

Respondents who are awarded contracts will be required to provide HGACBuy comprehensive price lists for all equipment / options / services included in the contract and will be required to provide pricing/product updates to HGACBuy throughout the entire contract period to keep the price lists and product offerings current. All pricing must be clear and easily understandable and clearly represent the total price to acquire the products/services covered in this contract.

Proposed pricing must be exclusive of freight. Shipping cost to the final H-GAC member location will be recognized at the time of each individual H-GAC purchase order, unique to each end user's delivery location and will not be included in equipment pricing. Unless otherwise specified by Respondent, freight will be assumed by H-GAC, and H-GAC Members, to be calculated as per commercial carrier invoice.

NOTE: Services that are staggered (e.g. weekly or monthly payments) must be priced as an annual and/or semi-annual and/or multi-year listed fee, covering the payment total.

Please download the below documents, complete, and **upload in Excel format.**

- MB11-26_Base_Response_Price...

*Response required

*9.2.2. Published Options Listing/Catalog**

Please upload your Published Options Listing/Catalog, or a link to your catalog.

9.3. Business Practices and Operations

*9.3.1. Business Practices**

Provide detailed information on your organization's history, practices, and philosophies, demonstrating the ability to effectively support this contract and HGACBuy members' needs.

Maximum response length: 5000 characters

*Response required

*9.3.2. Operations**

Provide organizational structure chart, identifying key staff and their responsibilities, and how they would be involved in fulfilling this contract if awarded.

*Response required

*9.3.3. Licenses/Certifications**

Provide any and all licenses and certificates as required by the Solicitation.

*Response required

*9.3.4. Bankruptcies/Safety and Insurance Claims**

Provide detailed information on all bankruptcies and safety and insurance claims with which your organization has been involved during the past five (5) years.

Maximum response length: 5000 characters

*Response required

9.4. Distinguishing Services

*9.4.1. Sales Office Locations**

Provide information on the locations of your sales offices.

Maximum response length: 5000 characters

*Response required

*9.4.2. Factory and Service Center Locations**

Provide information on the locations of your factory and service centers.

Maximum response length: 5000 characters

*Response required

*9.4.3. Value Added Services/Innovations/Awards & Recognitions/Plans to Pursue Increased Level of Excellence**

Provide details about value added services, product and service innovations, awards and recognitions, and planned activities or campaigns to pursue an increased level of excellence in products and services.

Maximum response length: 5000 characters

*Response required

*9.4.4. Technical and Maintenance**

Provide detailed information on the technical and maintenance services provided after a sale, and on what basis.

Maximum response length: 5000 characters

*Response required

*9.4.5. Customer Service**

Provide detailed information on policies and procedures for handling problems and returns. Provide details that clearly show a level of distinction and how Respondent's business operates above the minimum/average standards within the industry.

Maximum response length: 5000 characters

*Response required

*9.4.6. Delivery**

Provide detailed information on delivery procedures.

Maximum response length: 5000 characters

*Response required

*9.4.7. Training**

Provide detailed information on customer training provided, and on what basis.

Maximum response length: 5000 characters

*Response required

9.5. Geographic Areas Served

*9.5.1. Describe the company's geographic coverage and ability to meet the needs of Customers throughout the United States.**

Maximum response length: 5000 characters

*Response required

*9.5.2. Detail the dealer network (nationwide) and describe how it will be used to provide products/services to H-GAC members nationwide.**

Maximum response length: 5000 characters

*Response required

*9.5.3. Indicate the states anticipated to be served under the awarded contract. If products or services will differ between states, please provide details. By indication below, company affirms that it is authorized/certified to provide the goods/services in the areas selected. (Company must also be listed on the authorized dealer list included in solicitation response).**

Maximum response length: 5000 characters

*Response required

9.6. Planned Authorized Retailers Distributors Dealers

*9.6.1. Please refer to Section 3.7 of this solicitation for guidance to determine if you need to complete this form, and if so, for instructions on completing this form.**

Attach an approval letter from each manufacturer; authorization letters must include the regions in which equipment may be sold or serviced.

If no authorized distributors are planned for use during a subsequent, then please provide a statement in your response that indicates no intent to use retailers/distributors, etc.

- Authorized_Dealer_Distribut...

*Response required

9.7. References

*9.7.1. References**

Please download the below documents, complete, and upload.

- References_v7.18.23.pdf

*Response required

9.8. Warranty, Service, and Technical Manuals

*9.8.1. Submit detailed warranty, service, and technical manuals**

If Respondent submits a warranty which does not meet any minimum stated requirements in the Solicitation, Respondent agrees by submission of the Response that such warranty is automatically amended to meet the minimums.

Supply technical specifications which clearly show all the standard features and capabilities of the equipment in the response listing.

*Response required

*9.8.2. Factory Specifications**

Provide detailed factory specifications, covering the standard features and capabilities of the equipment, as priced in Response. For proposals with more detailed and/or custom/response-specific solutions, detailed quote sheets must be included.

*Response required

9.9. Required Documents/Certifications/Confirmations Section

The documents/certifications/confirmations below are required for every Solicitation.

*9.9.1. Electronic Signature Agreement/Confirmation**

Submission must be signed by a duly authorized representative(s) of the respondent, which must be the actual legal entity that will perform the contract if awarded and any total fixed price contained therein will remain firm for a period of one-hundred eighty (180) days following the submission due date and can be further extended by mutual written agreement.

A signature (electronic) constitutes acknowledgement and acceptance of all the Solicitation Terms and Conditions. Respondents, their authorized representative, and their agents are responsible for obtaining, and will be deemed to have, full knowledge of the conditions, requirements, and specifications of this Solicitation at the time a response is submitted to H-GAC. This Solicitation does not commit H-GAC to award a contract, issue a Purchase Order, or pay any costs incurred in the preparation of a submission to this Solicitation. The submission will become part of H-GAC's official files without any obligation on H-GAC's behalf. All Submissions will be held confidential from all parties other than H-GAC, and only released in accordance with Public Information Act requirements.

Respondent agrees and understands the above requirements, and by confirming, I certify that I am legally authorized to bind the entity to the Terms and Conditions of the Proposal as submitted. I also agree that any other related documents entered into in connection with this Proposal, which include a digital acknowledgement or electronic signature, are to be treated in all respects as having the same force and effect as original signatures.

☐ Please confirm

*Response required

*9.9.2. Electronic Submission Signature**

Signature of the person authorized to bind Respondent company to any contract/purchase order that may result from this Solicitation and acknowledgement and acceptance of the full Solicitation Terms and Conditions.

Please type (sign) Authorized Signor Name and Title Here:

Maximum response length: 200 characters

*Response required

9.9.3. Contact by Respondent*

To ensure a fair and competitive environment, direct communication between H-GAC employees other than the Solicitation Contact or any party able to create an unfair advantage to Respondent or disadvantage to other Respondents with respect to the Solicitation process, or the award of a Contract is strictly prohibited. This restricted period of communication begins on the issue date of the Solicitation and for Respondent(s) not selected for award ends with the conclusion of the protest period identified in the Solicitation document and for Respondents(s) selected for award ends with the Contract execution. This restriction does not apply to communications to other H-GAC employees during a Pre-Proposal/Bid or Response conference or other situations where the Solicitation Contact has expressly authorized direct communications with other staff. A Respondent who intentionally violates this requirement of the Solicitation process or otherwise deliberately or unintentionally benefits from such a violation by another party may have its Submission rejected in accordance with H-GAC Procurement Policy. Respondent(s) will not offer any gratuities, favors, or anything of monetary value to any official or employee of H-GAC (including any and all members of the evaluation committee) for the purposes of influencing consideration of any Submission.

Respondent agrees and understands the above requirement.

☐ Please confirm

*Response required

9.9.4. Small and Minority Business, Women's Business Enterprise, and Labor Surplus Affirmation*

Please download the below documents, complete, and upload.

- Small-and-Minority-Business...

*Response required

9.9.5. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts*

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Respondent certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas and at all times during the term of the Contract neither it nor its principals will be debarred, suspended, proposed for debarment,

declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas. Respondent shall immediately provide the written notice to H-GAC if at any time the Respondent learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. H-GAC may rely upon a certification of the Respondent that the Respondent is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless the H-GAC knows the certification is erroneous.

Please download the below documents, complete, and upload.

- Certification-Regarding-Deb...

*Response required

*9.9.6. Certification Regarding Lobbying/Byrd Anti-Lobbying Amendment**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub- recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

☐ Please confirm

*Response required

*9.9.7. Certification Regarding Drug-Free Workplace Requirements**

Respondent represents and warrants that it shall comply with the applicable provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.) and maintain a drug-free work environment. H-GAC may request a copy of this policy upon contract award.

The grantee certifies that it will provide a drug-free workplace by: (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; (b) Establishing a drug-free awareness program to inform employees about— (1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation and employee assistance programs, and (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace. (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a); (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will— (1) Abide by the terms of the statement; and (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after each conviction; (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction; (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted— (1) Taking appropriate personnel action against such an employee, up to and including termination; or (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

☐ Please confirm

*Response required

*9.9.8. Equal Employment Opportunity**

Respondent represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities. The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference.

☐ Please confirm

*Response required

*9.9.9. Filing Reports Form 1295 Certificate of Interested Parties**

No officer, member or employee of the Contractor or Contractors subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Master Agreement, shall participate in any decision relating to this Master Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Master Agreement.

As required by Section 2252.908 of the Texas Government Code. H-GAC will not enter a Contract with Contractor unless (i) the Contractor submits a disclosure of interested parties form to H-GAC at the time the Contractor submits the contract H-GAC, or (ii) the Contractor is exempt from such requirement. The required form and instructions are located at the Texas Ethics Commission website https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. Respondents who are awarded a Contract must submit their Form 1295 with the submission to H-GAC.

Please download the below document, complete, and upload. Download a blank Form here:

https://www.ethics.state.tx.us/filinginfo/1295/

- 1295.pdf

*Response required

*9.9.10. Conflict of Interest Questionnaire**

No officer, member or employee of the Contractor or Contractors subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Master Agreement, shall participate in any decision relating to this Master Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Master Agreement.

Chapter 176 of the Texas Local Government Code requires contractors contracting or seeking to contract with H-GAC to file a conflict-of-interest questionnaire (CIQ) if they have an employment or other business relationship with an H-GAC officer or an officer's close family member. H-GAC officers include its Board of Directors and Executive Director, who are listed on the H-GAC website. Respondent must complete and file a CIQ with the Texas Ethics Commission if an employment or business relationship with H-GAC officer or an officer's close family member as defined in the law exists. The required questionnaire and instructions are located on the Conflict of Interest page on the Texas Ethics Commission website. https://www.ethics.state.tx.us/forms/conflict/

Please confirm to acknowledge that the form will be filed if applicable.

☐ Please confirm

*Response required

*9.9.11. False Statement Certification**

Respondent represents and warrants that all statements and information prepared and submitted in this response are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.

☐ Please confirm

*Response required

*9.9.12. Financial Participation Prohibited Certification**

Pursuant to Section 2155.004(a) of the Texas Government Code, Respondent certifies that neither Respondent nor any person or entity represented by Respondent has received compensation from H-GAC to participate in the preparation of the specifications or solicitation on which this Response or contract is based. Under Section 2155.004(b) of the Texas Government Code, Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.

☐ Please confirm

*Response required

*9.9.13. Anti-Competitive Behavior/Anti-Trust Affirmation**

Respondent will not collude, in any manner, or engage in any practice, with any other Respondent(s) which may restrict or eliminate competition or otherwise restrain trade. Respondent also represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, or anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Response to any competitor or any other person engaged in the same line of business as Respondent.

☐ Please confirm

*Response required

*9.9.14. Contractor Status and Contact Form**

Please download the below documents, complete, and upload.

- Contractor-Status-and-Conta...

*Response required

*9.9.15. No Excluded Nation or Foreign Terrorist Organization Certification**

Effective September 1, 2017, Chapter 2252 of the Texas Government Code provides that a Texas governmental entity may not enter into a contract with a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

Please download the below documents, complete, and upload.

- No-Excluded-Nation-Foreign-...

*Response required

*9.9.16. HB89 SB52 Prohibition on Contracts with Companies Boycotting Israel Verification Form**

The 85th Texas Legislature approved new legislation, effective Sept. 1, 2017, which amends Texas Local Government Code Section 1. Subtitle F, Title 10, Government Code by adding Chapter 2270 which states that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: 1) does not boycott Israel; and 2) will not boycott Israel during the term of the contract Pursuant to Section 2270.001, Texas Government Code: 1. “Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations

specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and 2. “Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

Please download the below documents, complete, and upload.

- HB89-SB52-Verification-Form...

*Response required

*9.9.17. Terms and Conditions Confirmation**

Respondent agrees that it has read, understands, and fully intends to comply with the solicitation terms and conditions, and any additional terms and conditions (as applicable and included as additional sections, attachments or additional documents) of this solicitation as applicable to any subsequent contract or funding agency requirements or agreements. Exceptions to these Terms and Conditions are not permitted and will not be reviewed.

☐ Please confirm

*Response required

*9.9.18. Sample Master Agreement Confirmation**

By submitting a response to this Solicitation, respondent agrees that it has thoroughly read and fully intends to comply with the General and Special provisions of the Sample Master Agreement that respondent will be required to sign if awarded a cooperative contract. The awarded contract will be the same or similar to the sample. H-GAC reserves the right to update the actual contract with any additional required terms and conditions as required for compliance to agency and funding source requirements. Exceptions to these Master Agreement General and Special provisions are not permitted and will not be reviewed. Please view the Sample Master Agreement located in the Additional Resource Documents/Attachments section.

☐ Please confirm

*Response required

*9.9.19. Company W9**

Please upload a current company W9.

*Response required

10. Evaluation Criteria

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	**Products and Pricing** Price is competitive and all information is completed on the pricing sheets as set out in the submittal section of this solicitation. Demonstrated ability to deliver services at a reasonable cost and all elements of cost detail are provided. If offering services, reasonable total fee schedule/not to exceed hourly rates. Any travel associated expenses that may be incurred for additional offered services are priced separately and cannot exceed current U.S. General Services Administration established rates. For more information please visit: https://www.gsa.gov/travel-resources	0-5 Points	25 *(25% of Total)*
2.	**Business Practices and Operations** Detailed acceptable information is provided on Respondent's history, practices, and philosophies, demonstrating the ability to effectively support this contract and HGACBuy members' needs; information is provided related to organizational structure, and includes key staff responsibilities. All licenses and certificates are satisfactory and are provided as required by the Solicitation. Details are provided on any bankruptcies, plus safety and insurance claims with which Respondent has been involved during the past five (5) years.	0-5 Points	20 *(20% of Total)*
3.	**Distinguishing Services** Provides details about Respondent's value-added services, product and service innovations, awards and recognitions, and planned activities or campaigns to pursue an increased level of excellence in products and services. Provides details that clearly show a level of distinction and how Respondent's business operates above the minimum/average standards within their industry.	0-5 Points	20 *(20% of Total)*

4.	**Geographic Areas Served/Authorized Distributor** Detailed geographic coverage is provided and demonstrates the ability to meet the needs of Customers throughout the United States. If applicable, dealer network (nationwide) is provided and describes how it will be used to promote this program and provide products/services to H-GAC members nationwide. Approval letter from each manufacturer is submitted (when applicable); authorization letters include the regions in which equipment may be sold or serviced. A listing of all planned retailers/distributors (if applicable), etc. that may be used during the term of this contract to deliver goods or services is provided.	0-5 Points	15 *(15% of Total)*
5.	**Past Performance** An evaluation will be conducted of the Respondents previous contract performance as an HGACBuy contractor based on the performance measured listed below. Those with no history will receive the maximum for this criterion. NOTE: For joint responses, each party will be scored as outlined above and an overall average will be taken of all companies submitting a signed signature page to determine the overall score for each joint submission. PERFORMANCE MEASURES (2% each) • Timely and accurate response to request for information and/or request for quotes/pricing • Timely delivery of product or services (as quoted at time of order placement) • Quality of products/service • Timely and accurate submission of Contractor's Activity Report • Timely payment of order processing charge	0-5 Points	10 *(10% of Total)*

6.	**References** Five (5) adequate references and examples of government sales to government customers in comparable size and minimum requirements are provided.	0-5 Points	10 *(10% of Total)*

11. Evaluation Process

In the event of any tie bids, H-GAC may award a contract by drawing lots or by awarding to multiple contractors. If time permits the bidders involved shall be given an opportunity to attend the drawing. The drawing must be witnessed by at least three (3) persons and the contract file must contain the names and addresses of the witnesses and the person supervising the drawing. When an award is made by drawing by lot after receipt of equal low bids, the buyer must describe how the tie was broken by providing a written statement that the contract award was made in accordance with the circumstances justifying the priority used to break the tie or select bids for a drawing by lot. This does not prohibit H-GAC from rejecting all bids.

An evaluation committee may consist of representatives from H-GAC and other stakeholders. The committee members will individually evaluate and numerically score each submission in accordance with the evaluation criteria section of this Solicitation. Submissions will be evaluated based on a total top score of 100. The committee members will individually evaluate and numerically score each submission in accordance with the evaluation criteria section of this Solicitation. Respondents with a score of at least **70** may be eligible for a contract award recommendation, at the sole discretion of H-GAC.

12. Selection/Final Approval and Award

A recommendation will be presented to the H-GAC Board of Directors for approval to execute a contract. H-GAC reserves the right to award based on the best interests of H-GAC, whether that be single or multiple awards. However, the final approval and selection of award lies with the Board of Directors. H-GAC reserves the right to delay that date as needed and to reject any and all submissions as deemed in its interest. H-GAC reserves the right to require the awarded Contractor attend a post award meeting with H-GAC staff and/or other designated persons at H-GAC offices in Houston, Texas within thirty (30) calendar days after the award. The purpose of the meeting will be to discuss the terms and conditions and to provide additional information regarding the work tasks and requirements. Awarded Contractor and H-GAC will identify specific goals, strategies and activities planned for meeting program objectives.

H-GAC reserves the right to accept or reject, in whole or in part, any or all responses received and to make an award on the basis of individual item, combination of items, or overall best value response, as it is deemed in the best interest of H-GAC and its Customers.

It is the obligation of the HGACBuy Member to obtain pricing to determine best value with respect to their specific requirements and additional purchasing protocols, and to apply any additional levels of scrutiny when choosing an appropriate contractor.

13. Presentation/Demo/Interview and Best and Final

Presentation/Demonstration/Interview: The evaluation committee reserves the right to request and require that each Respondent provide a final presentation/demonstration/interview regarding submission at a scheduled date and time. No Respondent is entitled to this opportunity, and no Respondent will be entitled to attend the presentation/demonstration/interview of any other Respondent. The purpose of the presentation/demonstration/interview is to inform the work of the evaluation committee. If necessary, Respondents may be required to make more than one presentation/demonstration/interview. Interviews can incorporate clarifying questions of the evaluation committee and H-GAC reserves the right to utilize the information to complete final scoring of proposals after the presentation/demonstration/interview. During this process, the proposer cannot incorporate, or present new information not contained in the original submitted proposal.

Best and Final Offer (BAFO): H-GAC reserves the right to request a Best and Final Offer from finalist Respondent(s), if it deems such an approach necessary. In general, BAFO would consist of updated costs and answers to specific questions that were identified during the evaluation. If H-GAC chooses to invoke this option, Submissions would be re-evaluated by incorporating the information requested in the BAFO document, including costs, and answers to specific questions presented in the document. The specific format for the BAFO would be determined during evaluation discussions. Turnaround time for responding to a BAFO is usually brief (i.e., five (5) business days).

14. Debrief/Protest

Requesting a Debrief: Requests for a debriefing must be made in writing to HGACBuySolicitations@h-gac.com within five (5) working days after notification of non-selection. H-GAC reserves the right to not conduct debriefings if requests are made after that time. This procedure is NOT available to Respondents who did not participate in the selected Solicitation, to non-responsive or non-timely Respondents, or when all submissions are rejected.

Resolution of Protested Solicitations: Any Respondent who is aggrieved in connection with a purchase transaction may file a grievance. The grievance may be filed at any phase of the procurement, and up to five (5) days after the H-GAC Board of Directors public agenda is posted for action regarding the questioned item. Grievances filed more than five (5) working days after action by the H-GAC Board of Directors will not be deemed timely and will not be considered. In order for a Respondent to enter the grievance process, a written complaint must be sent to the Deputy Assistant Director of H-GAC by certified mail and sent to 3555 Timmons Lane, Houston, Texas 77027, which includes the following:

A. Name, mailing address and business phone number of the complainant.

B. Appropriate identification of the procurement being questioned.

C. A precise statement of the reasons for the protest.

D. Supporting exhibits, evidence, or documents to substantiate any claims.

The grievance must be based on an alleged violation of H-GAC's Procurement Procedures, a violation of State or Federal Law (if applicable), or a violation of applicable grant or contract agreements to which H-GAC is a party. Failure to receive a procurement award from H-GAC in and of itself does not constitute a valid grievance. Upon receipt of grievance, the Deputy Executive Director will initiate the informal resolution process.

The Procurement and Contracts Department will contact the complainant and all interested parties and attempt to resolve the allegations informally within ten (10) working days from the date of complaint. If the allegations are successfully resolved by mutual agreement, documentation will be forwarded to the Deputy Executive Director of the resolution with specifics on each point addressed in the original complaint.

If the Procurement and Contracts Department is not successful in resolving the allegations, the complaint, along with the comments, will be forwarded to the Deputy Executive Director immediately. The Deputy Executive Director will review all documentation. All interested parties will be given written notice of the date, time, and place of hearing and an opportunity to present evidence. A written decision will be issued within five (5) working days after the hearing along with notice of appeal rights.

The complainant may appeal the Deputy Executive Director's decision by submitting a written appeal, within five (5) working days, to the Executive Director of H-GAC. The Executive Director, upon receipt of a written notice of appeal, will contact the complainant and schedule a hearing within ten (10) working days. The Executive Director of H-GAC has the option of appointing a Hearing Officer to preside over the hearing. If appointed, the Hearing Officer will conduct a hearing and forward a summary and recommended resolution to the Executive Director.

The decision reached by the Executive Director or his designee will be final and conclusive. This decision will be forwarded to the complainant in writing within thirty (30) working days.

The Respondent may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction.

15. Master Agreement General Contract (and Solicitation) Terms and Conditions

By submitting a response, respondent agrees that it has read and fully intends to comply with the terms and conditions contained in this solicitation document as applicable to any subsequent contract or funding agency requirements or agreements. Exceptions to these Master Terms and Conditions are not permitted.

15.1. H-GAC Terms and Conditions

A. H-GAC will not pay for any expenses incurred prior to the execution date of a contract, or any expenses incurred after the termination date of the contract.

B. Except as stated below, all materials submitted to H-GAC, including any attachments, appendices, or other information submitted as a part of a submission, are considered public information, and become the property of H-GAC upon submission and may be reprinted, published, or distributed in any manner by H-GAC according to open records laws, requirements of the US Department of Labor and the State of Texas, and H- GAC policies and procedures. In the event the respondent wishes to claim portions of the response are not subject to the Texas Public Information Act, it shall so indicate on the response; however, the determination of the Texas Attorney General as to whether such information must be disclosed upon a public request shall be binding on the respondent. H-GAC will request such a determination only if respondent bears all costs for preparation of the submission. H-GAC is not responsible for the return of creative examples of work submitted.

C. H-GAC will not be held accountable if material from submissions is obtained without the written consent of the contractor by parties other than H-GAC, at any time during the evaluation process.

D. Contract Termination:

1. *Convenience*

   H-GAC may terminate this Contract in whole or in part without cause at any time by written notice by certified mail to the Contractor whenever for any reason H-GAC determines that such termination is in the best interest of H-GAC. Upon receipt of notice of termination, all services of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination.

2. *Default*

7. H-CAC may, by written notice of default to the Contractor, terminate the whole or any part of the Contract in any one of the following circumstances:

   a. If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or

   b. If the Contractor fails to perform any of the other provisions of this Contract for any reason whatsoever, or so fails to make progress or otherwise violates the Contract so that completion of the services herein specified within the agreement term is significantly endangered, and in either of these two instances Contractor does not cure such failure within a period of ten (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

In the event of such termination, Contractor will notify H-GAC of any outstanding Purchase Orders and H-GAC will consult with the End User and notify the Contractor to what extent the End User wishes the Contractor to complete the Purchase Order. If Contractor is unable to do so, Contractor may be subject to a claim for damages from H-GAC and/or the End User.

15.2. Notice of Public Information

All materials submitted to H-GAC, including any attachments, appendices, or other information submitted as a part of a submission, are considered public information, unless otherwise noted in the response itself as a trade secret or proprietary information, and become the property of H-GAC upon submission and may be reprinted, published, or distributed in any manner by H-GAC according to open records laws, requirements of the US Department of Labor and the State of Texas, and H-GAC policies and procedures. H-GAC is not responsible for the return of creative examples of work submitted.

Respondent understands that H-GAC will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this Solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Respondent is required to make any information created or exchanged with H-GAC pursuant to the contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to H-GAC.

15.3. Accommodation Compliance

In compliance with Americans with Disabilities Act, H-GAC will provide for reasonable accommodations for persons attending H-GAC activities. Requests must be received by H-GAC twenty-four (24) hours prior to the activity.

15.4. Tax Exempt Status

H-GAC and Customer members are either units of government or qualified non-profit agencies, and are generally exempt from Federal and State sales, excise or use taxes. Respondent must not include taxes in its Response. It is the responsibility of Contractor to determine the applicability of any taxes to an order and act accordingly. Exemption certificates will be provided upon request.

15.5. Contract Price Adjustments

1. *Price Decreases*

If Contractor's Direct Cost decreases at any time during the full term of this award, Contractor must immediately pass the decrease on to H-GAC and lower its prices by the amount of the decrease in Direct Cost. (Direct Cost means Contractor's cost from the manufacturer of any item or if Contractor is the manufacturer, the cost of raw materials required to manufacture the item, plus costs of transportation from manufacturer to Contractor and Contractor to H-GAC. Contractor must notify H-GAC of price decreases in the same way as for price increases set out below. The price decrease shall become effective upon H-GAC's receipt of Contractor's notice. If Contractor routinely offers discounted contract pricing, H-GAC may request Contractor accept amended contract pricing equivalent to the routinely discounted pricing.

2. *Price Increase*

Contractors may request a price increase for items priced as Base Bid items and Published Options. The amount of any increase will not exceed actual documented increase in Contractor's Direct Cost and will not exceed 10% of the previous bid price. Considerations on the percentage limit will be given if the price increase is the result of increased tariff charges or other governmental actions, or other economic factors. Manufacturer price/contract changes involving the sale of motor vehicles will be considered and may be

allowed during the entire contract period subject to submission and verification of the proper documentation required for a contract change as referenced in this section.

3. *Price Changes*

Any permanent increase or decrease in offered pricing for a base contract item or published option is considered a price change. Temporary increases in pricing by whatever name (e.g., 'surcharge', 'adjustment', 'equalization charge', 'compliance charge', 'recovery charge', etc.), are also considered to be price changes. For published catalogs and price sheets as part of an H-GAC contract, requests to amend the contract to reflect any new published catalog or price sheet must be submitted whenever the manufacturer publishes a new document. The request must include the new catalog or price sheet. All Products shall, at time of sale, be equipped as required under any then current applicable local, state, and federal government requirements. If, during any contract, changes are made to any government requirements which cause a manufacturer's costs of production to increase, Contractor may increase pricing to the extent of Contractor's actual cost increase. The increase must be substantiated with support documentation acceptable to H-GAC prior to taking effect. Modifications to a Product required to comply with such requirements which become effective after the date of any sale are the responsibility of the Customer.

4. *Requesting Price Increase/Required Documentation*

Contractor must submit a written overview of changes requested and reasons for the request, stating the amount of the increase, along with an itemized list of any increased prices, showing the Contractor's current price, revised price, the actual dollar difference and the percentage of the price increase by line item. Price change requests must be supported with substantive documentation (e.g., notices from suppliers and manufacturers of pricing changes in products, components, transportation, raw materials or commodities, and/or product availability, copies of invoices from suppliers, etc.) clearly showing that Contractor's actual costs have increased per the applicable line-item bid. The Producer Price Index (PPI) may be used as partial justification, subject to approval by H-GAC, but no price increase based solely on an increase in the PPI will be allowed. This documentation should be submitted in Excel format to facilitate analysis and updating of the website. The letter and documentation must be sent to Lead Program Coordinator, james.glover@h-gac.com.

5. *Review/Approval of Requests*

If H-GAC approves the price increase, Contractor will be notified in writing; no price increase will be effective until Contractor receives this notice. If H-GAC does not approve Contractor's price increase, Contractor may terminate its performance upon sixty (60) days advance written notice to H-GAC, however Contractor must fulfill any outstanding Purchase Orders. Termination of performance is Contractor's only remedy if H-GAC does not approve the price increase. H-GAC reserves the right to accept or reject any price change request.

15.6. Contract Item Changes

1. If a manufacturer discontinues a contracted item, that item will automatically be considered deleted from the contract with no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.
2. If a manufacturer makes any kind of change in a contracted item which affects the contract price, Contractor must advise H-GAC of the details. H-GAC may allow or reject the change at its sole discretion. If the change is rejected, H-GAC will remove the item from its program and there will be no penalty to Contractor. However, H- GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.
3. If a manufacturer makes any change in a contracted item which does not affect the contract price, Contractor shall advise H-GAC of the details. If the 'new' item is equal to or better than the originally contracted item, the 'new' item shall be approved as a replacement. If the change is rejected H-GAC

will remove the item from its program and there will be no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item or may take any other action deemed by H-GAC at its sole discretion, to be in the best interests of its Customers.

4. In the case of specifically identified catalogs or price sheets which have been contracted as base bid items or as published options, routine published changes to products and pricing will be automatically incorporated into the contract. However, Contractor must still provide written notice and an explanation of the changes to products and pricing. H-GAC will respond with written approval.

15.7. Change Orders

Customers have the right to issue a change order to any purchase orders issued to the Contractor for the purposes of clarification or inclusion of additional specifications, qualifications, conditions, etc. The change order must be in writing and agreed upon by Contractor and the Customer agency prior to issuance of any Change Order. A copy of the Change Order must be provided by the Contractor to, and acknowledged by, H-GAC.

15.8. HGACBuy Order Processing Charge

H-GAC will apply an Order Processing Charge for each sale done through the H-GAC contract, with the exception of orders for motor vehicles. Any pricing submitted must include this charge amount per the most current H-GAC schedule. For motor vehicle orders, the Processing Charge is paid by the Customer.

15.9. Payment for Work

The H-GAC Customer is responsible for making payment to the Contractor upon delivery and acceptance of the goods or completion of the services and submission of the subsequent invoice.

15.10. Payment Terms/Pre-payment/Quantity Discounts

If discounts for accelerated payment, pre-payment, progress payment, or quantity discounts are offered, they must be clearly indicated in the submission. The applicability or acceptance of these terms is at the discretion of the Customer.

15.11. General Insurance

Unless otherwise stipulated in another section of this Solicitation, Contractor must have the following insurance and coverage minimums:

General liability insurance with a Single Occurrence limit of at least $1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit. **Product liability** insurance with a Single Occurrence limit of at least
$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit for all Products except Automotive Fire Apparatus. For Automotive Fire Apparatus, see Specifications of this Solicitation. **Property Damage or Destruction** insurance is required for coverage of Customer owned equipment while in Contractor's possession, custody or control. The minimum Single Occurrence limit is $500,000.00 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways, e.g. under an Inland Marine policy, as part of Automobile coverage, or under a Garage Keepers policy.

If any Product(s) or Service(s) will be provided by parties other than Respondent, all parties are required to carry the minimum insurance coverages specified, and if requested by H-GAC, a separate insurance certificate must be submitted for each such party. Coverage must be clearly listed on any insurance certificate(s) submitted to H-GAC. All insurance certificates, policies, and binders must be maintained by Respondent at its program site for review by H-GAC at any time, and a copy must be provided to H-GAC upon contract award. H-GAC reserves the right to contact insurance underwriters to confirm policy and certificate issuance and document accuracy.

15.12. Distributors, Vendors, Resellers, etc.

Contractor agrees and acknowledges that any such designations of distributors, vendors, resellers or the like are for the convenience of the Contractor only and the awarded Contractor will remain responsible and liable for all obligations under the Contract and the performance of any designated distributor, vendor, reseller, etc. Contractor is also responsible for receiving and processing any Customer purchase order in accordance with the Contract and forwarding of the Purchase Order to the designated distributor, vendor, reseller, etc. to complete the sale or service. H-GAC reserves the right to reject any entity acting on the Contractor's behalf or refuse to add entities after a contract is awarded.

15.13. Inspection/Testing

All Products sold pursuant to this Solicitation will be subject to inspection/testing by or at the direction of H-GAC and/or the ordering Customer, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements of this Solicitation, and unless otherwise agreed in advance, the cost of any inspection and/or testing, will be the responsibility of the Contractor.

15.14. Restocking (Exchanges and Returns)

There will be no restocking charge to the Customer for return or exchange of any item purchased under the terms of any award. If the Customer wishes to return items purchased under an awarded contract, the Contractor agrees to exchange, these items for other items, with no additional charge incurred. Items must be returned to Contractor within thirty (30) days from date of delivery. If there is a difference in price in the items exchanged, the Contractor must notify H-GAC and invoice Customer for increase price or provide the Customer with a credit or refund for any decrease in price per Customer's preference. On items returned, a credit or cash refund will be issued by the Contractor to Customer. This return and exchange option will extend for thirty (30) days following the expiration of the term of the Contract. All items returned by the Customer must be unused and in the same merchantable condition as when received. Items that are special ordered may be returned only upon approval of the Contractor.

15.15. Out of Stock/Product Recalls/Discontinued Products

Contractor is responsible for ensuring that notices and mailings, such as Out of Stock or Discontinued Notices, Safety Alerts, Safety Recall Notices and customer surveys, are sent directly to the Customer with a copy sent to H-GAC. Customer will have the option of accepting any equivalent product or canceling the item from Customer's Purchase Order. Contractor is not authorized to make substitutions without prior approval.

15.16. Deliveries/Shipping Terms

The Contractor agrees to make deliveries only upon receipt of authorized Customer Purchase Order acknowledged by H-GAC. Delivery made without such Purchase Order will be at Contractor's risk and

will leave H-GAC the option of canceling any contract awarded to the Contractor. The Contractor must secure and deliver any item within five (5) working days or in conformance with any terms alternately established with the Customer. Shipping must be F.O.B. Destination to the delivery location designated on the Customer purchase order. The Contractor will retain title and control of all goods until delivery is completed and the Customer has accepted the delivery. All risk of transportation and all related charges are the responsibility of the Contractor. The Customer will notify the Contractor and H-GAC promptly of any damaged goods and will assist the Contractor in arranging for inspection. The Contractor must file all claims for visible or concealed damage. Unless otherwise stated in the Bid Form or Specifications, deliveries must consist only of new and unused merchandise.

15.17. Manuals

Each product delivered under contract to any Customer must be delivered with at least one (1) copy of a safety and operating manual and any other technical or maintenance manual. The cost of the manual(s) must be included in the price for the Product offered.

15.18. Warranties, Sales and Service

Warranties must be the manufacturer's standard and inclusive of any other warranty requirements stated in the Solicitation; any warranties offered by a dealer will be in addition to the manufacturer's standard warranty and will not be a substitute for such. Pricing for any Product must be inclusive of the standard warranty. Contractor is responsible for the execution and effectiveness of all product warranty requests and any claims, Contractor agrees to respond directly to correct warranty claims and to ensure reconciliation of warranty claims that have been assigned to a third party.

15.19. Contract Assignment

Respondent may not assign, transfer or delegate, in whole or in part, any of its interest in, or rights or obligations under and contract resulting from this solicitation without the prior written consent of H-GAC, and any attempted or purported assignment, transfer or delegation thereof without such consent shall be null and void.

15.20. Applicability to Subcontractors

Respondent agrees that all contracts it awards pursuant to the contract awarded as a result of this procurement Solicitation will be bound by the foregoing terms and conditions.

15.21. Access and Protections of H-GAC Information Resources, Data, and Credentials

Contractor is responsible for, must protect, and shall provide adequate safeguards against any unauthorized use, modification, or disclosure of H-GAC information resources, data, and credentials. Contractor and subcontractors shall stay up to date and aware of current, ongoing, and potential telecommunications security risks in Contractor and subcontractors given environment(s) and must always consider information sensitivity and transmission security issues when selecting a communications medium. Contractor and subcontractors are required to utilize up-to-date and adequate anti-virus or malware protection software for all systems and devices used to access H-GAC

information resources, data, and credentials. Contractor is responsible for any incident arising from improperly protected H-GAC information resources, data, and credentials.

15.22. Information Resources Security Policy

Contractor shall maintain a written information security policy, which at minimum: 1) ensures that all employees and subcontractor's employees shall complete a cybersecurity training program certified under section 2054.5192 of the Texas Government Code. Such training must occur during the contract term and renewal period. Contractor shall provide H-GAC with verification of required training upon completion or H-GAC's request; 2) provides regular training of all employees and subcontractor's employees on applicable and up to date security procedures and techniques; 3) requires that contractor and subcontractors maintain privacy policies that protect private data as prescribed by applicable state, local, federal privacy laws and regulations; and, 4) requires that contractor and subcontractors utilize adequate safeguards to address any security vulnerabilities. Upon request, Contractor shall provide H-GAC with a copy of company and/or subcontractor's written information security policies.

15.23. Security Breach

Contractor shall notify H-GAC within 24 (twenty-four) hours of Contractor's discovery of a security incident, breach, or unauthorized use, modification, or disclosure of H-GAC information resources, data, or credentials. Hereinafter, such an event will be referred to as a "security breach" in this section. Upon immediate discovery of security breach, Contractor will coordinate with H-GAC to determine and implement an adequate and timely action plan to mitigate security breach and resolve any issues resulting from security breach. Contractor shall bear all associated costs for any security breach caused by the negligence or willful misconduct of the Contractor and subcontractors.

15.24. Contracting Information Responsibilities

If the contract is at least $1 million, Respondent represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552 of the Government Code, may apply to the contract and the Respondent agrees that the contract can be terminated if the Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.

15.25. Background Checks

Cooperative customers may request background checks on any awarded contractor's employees who will have direct contact with students, or for any other reason they so choose, any may require contractor to pay the cost of obtaining any background information requested by the Customer.

15.26. Compliance with Federal Law, Regulation, and Executive Orders

Contractor will comply will all applicable federal law, regulations, executive orders, policies, procedures, and directives.

15.27. Non-Discrimination

The Houston-Galveston Area Council, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 US, C 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to the advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Respondent and potential subcontractors must comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:

A. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin

B. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex

C. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps

D. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age

E. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse

F. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism

G. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records

H. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing

I. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) that may apply to the application.

15.28. Domestic Preference

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, when using federal grant award funds H-GAC should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). H-GAC must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for an award using federal grant

money, it shall work with H-GAC to provide all required certifications and other documentation needed to show compliance.

For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

15.29. Profit as a Separate Element of Price

Purchases using federal funds for more than the current Simplified Acquisition Threshold of $250,000 (or current amount as set by the OMB), may require negotiation of profit as a separate element of the price. See, 2 CFR 200.324(b). Respondent agrees to provide information and negotiate regarding profit as a separate element of the price for the purchase. Respondent also agrees that the total price, including profit, charged will not exceed the awarded pricing, including any applicable discount, under any awarded contract.

15.30. Clean Air and Water Pollution Control Act and EPA Regulations

Contracts and subgrants of amounts more than $150,000 must contain a provision that requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Pursuant to the Federal Rule above, Respondent certifies that it complies with all applicable provisions of the Clean Air Act (42

U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will remain in compliance during the term of the Contract. Respondent certifies that Respondent complies with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42

U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (13 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

15.31. Compliance with Energy Policy and Conservation Act

Respondent certifies that Respondent complies with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

15.32. Procurement of Recovered Materials

In accordance with 2 CFR 200.323, the Houston-Galveston Area Council and the Respondent must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40

CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

15.33. Prevailing Wage

Respondent and any potential subcontractors have a duty to and shall pay the prevailing wage rate under the Davis Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5.

15.34. Contract Work Hours and Safety Standards

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

15.35. Copeland "Anti-Kickback" Act

The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the contract. (2) The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as appropriate agency instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

15.36. Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Equipment or Services

Pursuant to 2 CFR 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. ‘

As described in section 889 of Public Law 115-232, “covered telecommunications equipment or services” means any of the following:

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment;

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country;

(c) For the purposes of this section, “covered telecommunications equipment or services” also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

The provision at 48 C.F.R Section 52.204-26 requires that offerors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items.

15.37. Buy America Requirement (Applies only to Federally Funded Highway and Transit Projects)

With respect to products purchased by H-GAC for use in federally funded highway projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy America provisions set forth in 23 U.S.C. Section 313, 23 C.F.R. Section 635.410, as amended, and the Steel and Iron Preference provisions of Texas Transportation Code Section 223.045, to the extent applicable. Contractor agrees to provide all certifications required by H-GAC regarding such programs. With respect to products purchased by H-GAC for use in federally funded transit projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy America provisions set forth in 49 U.S.C. Section 5323(j)(1), 49 C.F.R. Sections 661.6 or 661.12, to the extent applicable. Contractor agrees to provide all certifications required by H-GAC regarding such programs.

15.38. Buy American Act (National School Lunch Program and Breakfast Programs)

With respect to products purchased by Customers for use in the National School Lunch Program and/or National School Breakfast Program, Contractor shall comply with all federal procurement laws and regulations with respect to such programs, including the Buy American provisions set forth in 7 C.F.R. Part 210.21(d), to the extent applicable. Contractor agrees to provide all certifications required by Customer regarding such programs. In the event Contractor or Contractor's supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, H-GAC Customers may decide not to purchase from Contractor. Additionally, H-GAC Customers may require country of origin on all products and invoices submitted for payment by Contractor, and Contractor agrees to comply with any such requirement.

16. Additional H-GAC Solicitation Terms and Conditions

By submitting a response, the respondent agrees that it has read and fully intends to comply with the terms and conditions contained in this solicitation document as applicable to any subsequent contract or funding agency requirements or agreements. Exceptions to these General Terms and Conditions are not permitted.

16.1. H-GAC Rights and Responsibilities

H-GAC is responsible for project administration and final decisions on all contractual matters. H-GAC has sole discretion and reserves the right to cancel this Solicitation or to reject any or all submissions received prior to the contract award. H-GAC reserves the right to waive any formalities concerning this Solicitation, or to reject any or all submissions or any part thereof.

16.2. No Liability Provisions

H-GAC will not pay for any expenses incurred prior to the execution date of a contract, or any expenses incurred after the termination date of the contract. H-GAC will not be held accountable if material from submissions is obtained without the written consent of the contractor by parties other than H-GAC, at any time during the evaluation process.

16.3. Line-Item Bids

Only (1) one item can be bid for each referenced line item. To bid the referenced line item and an alternate, respondent must submit a separate bid form for each alternate item(s) with its own original signature page. Multiple bids for the same line item on one bid form may give cause to reject a bid from further consideration.

16.4. Percentage Discount from Catalog or Category

A specific percentage discount from a catalog or categories referenced may be bid as specified or Contractor may bid an alternate or approved equal catalog for the products/equipment. The bids received will be evaluated on Contractor's ability to meet or exceed specifications and most advantageous discount to the HGACBuy program. Cost plus a percentage of cost as a primary pricing mechanism is not acceptable.

16.5. Pricing Discrepancies

In case of discrepancies between total prices and unit prices; the latter will prevail.

16.6. Requirements Applicable to Physical Goods

In the case of physical goods (e.g., equipment, material, supplies, as opposed to services), all Products offered must comply with any applicable provisions of the Texas Business and Commerce Code, Title 1, Chapter 2 and with at least the following:

A. Be new, unused, and not refurbished.

B. Not be a prototype as the general design, operation and performance. This requirement is NOT meant to preclude Respondent from offering new models or configurations which incorporate improvements in a current design or add functionality, but in which new model or configuration may be new to the marketplace.

C. Include all accessories which may or may not be specifically mentioned in the Solicitation, but which are normally furnished or necessary to make the Product ready for its intended use upon delivery. Such accessories must be assembled, installed and adjusted to allow continuous operation of Product at time of delivery.

D. Have assemblies, sub-assemblies and component parts that are standard and interchangeable throughout the entire quantity of a Product as may be purchased simultaneously by any Customer.

E. Be designed and constructed using current industry accepted engineering and safety practices, and materials.

F. Be available for inspection at any time prior to or after procurement.

16.7. Samples

Samples, when required, must be submitted at no expense to H-GAC. If not destroyed or consumed during testing, samples will be returned upon request at Offeror's expense. Samples will be used to determine if the proposed items meet the specifications stated in the Solicitation. If Respondent fails to provide samples within five (5) day period, as required, H-GAC may reject the Response and not consider it for further evaluation.

16.8. Measurements

Any measurements stated for items are approximates. H-GAC reserves the right to accept items that are similar in size, if in H-GAC's judgment, the item offered fulfills the intended purpose.

16.9. Options - General

1. Options are any features or accessories, other than H-GAC's and Manufacturer's "standard" features or accessories.
2. Options should be offered on the forms designated for quoting options. Each option should be listed and described on a separate line and must include any Manufacturer's/Dealer's code number. If no Manufacturer's/Dealer's code number exists, Respondent should create one.
3. Prices for all offered options must include any installation or mounting required to make it a fully functional component of the Product, unless otherwise stated in the Response.
4. "Suggested" or "Other" options may be listed for any Product in the Solicitation, Respondent is encouraged to quote pricing for such options. The extent of offered options in any response may be taken into consideration as part of the award criteria, at H-GAC's sole discretion.
5. Respondent is encouraged to include options for non-equipment items that may be applicable to a sale, such as: Extended Warranties, Maintenance Agreements, Buy-back or Trade-In Agreements, Quantity or Special Discounts, Extended Training, etc.

Required Options

A. Product specifications may include H-GAC "Required Options". If so, Respondent must quote a price for ALL options requested, and, if there is an H-GAC Option Code provided in the Solicitation, it MUST be used as part of the description.

B. For any specific "Required Option", Respondent may quote an equivalent so long as its design and performance are as good as, or better than, the specified option item. Responses which do not include pricing for Required Options may be considered non-compliant.

Upgrade/Downgrade Options

A. H-GAC may include in the Solicitation the opportunity for a Contractor to provide items related to the "base item" being provided, termed Upgrade/Downgrade Options. These options allow Customers to customize their purchase to meet any required individual entity requirements. **Upgrade/Downgrade options are only available with the purchase of the matching "base item".** H-GAC reviews all Purchase Order requests for Upgrade/Downgrade Options and reserves the right to disallow purchase of any Published Option through the Program.

B. No Upgrade/Downgrade Option may be offered which essentially converts a Product such that it competes with a Product Item awarded to another Contractor.

16.10. Standard Features

The stated minimum requirements for all Products requested in the Solicitation are considered "standard" features by H-GAC; even if these features might normally be offered as options, these features must be included in the base price for any product offered.

16.11. Variances

Any variance in the specifications or performance of Products offered pursuant to this Solicitation will be deemed acceptable to H-GAC only if the variance MEETS or EXCEEDS the specifications and requirements of this Solicitation.

16.12. Interpretation of Specifications

Any specifications and/or product references contained are intended to be descriptive rather than restrictive. H-GAC is soliciting responses to provide a complete service package which meets its overall requirements. Specific services and collection references may be included in this Solicitation for guidance, but they are not intended to preclude Respondents from recommending alternative solutions offering comparable or better performance or value. Results of informal meetings or discussions between a potential Respondent and H-GAC official or employee may not be used as a basis for deviations from the requirements contained in this Solicitation. The intent of the specifications is to provide Respondent with sufficient information concerning the Products/Services to be contracted so Respondent can prepare and submit an acceptable Response. The specifications may be detailed or general in nature. Details of construction, materials, or the way in which services will be provided, are left to the discretion of the Respondent, provided only that any offering must conform, as a minimum, to best Industry standards and practices and to what is currently being sold in the marketplace. Requirements contained in the Solicitation are not considered to be biased toward any Respondent(s) competing under this Solicitation.

16.13. Brand Name or Equivalent

Wherever in the specifications any materials or processes are indicated or specified by patent of proprietary name and/or by name of manufacturer, such specifications will be deemed to be used for the purpose of facilitating descriptions of the performance, materials and/or processes desired and must be deemed to be followed by the words, "or equivalent", if not stated in the specifications. The burden of proof will rest with the Respondent, in the course of a technical evaluation, to prove that the proposed item(s) are equivalent to the performance, materials, processes, or articles specified. Determination as to whether the items(s) bid is/are equivalent to those specified will rest solely with H-GAC and the Customer. If a respondent is offering an "or equivalent" item, respondent must list the manufacturer's name and product number of the item offered. If this detail is not provided, it will be assumed respondent is offering the exact item specified. H-GAC's decision whether an item is an equivalent to the item specified is final.

16.14. Warranty and Copyright

Submissions must include all warranty information, including items covered, items excluded, duration, and renewability. Submissions must include proof of licensing if using third party code for programming.

16.15. Architecture and Engineering Services

The HGACBuy Cooperative Purchasing program is prohibited from offering Architecture and Engineering or other Independent testing services via a cooperative contract. Contractors may not offer any such services under and HGACBuy contract. Texas law requires Architectural and Engineering Services to be obtained in accordance with the Professional Services Procurement Act, Texas Local Government Code, Chapter 2254.